

AMENDED IN ASSEMBLY JUNE 15, 2004  
AMENDED IN ASSEMBLY MARCH 23, 2004  
AMENDED IN ASSEMBLY MARCH 4, 2004  
AMENDED IN ASSEMBLY JUNE 19, 2003

**SENATE BILL**

**No. 574**

**Introduced by Senator Alpert**

February 20, 2003

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An act to add Section 3702.85 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 574, as amended, Alpert. Workers' compensation.

Existing law requires employers that elect to be self-insured for workers' compensation liabilities to obtain a certificate of consent to self-insure from the Director of Industrial Relations, and requires employers that cease to be self-insured to discharge their continuing obligations to secure the payment of workers' compensation that accrued during the period of self-insurance by complying with various procedures, including the deposit and maintenance of a security deposit with the director for accrued liability. Under these provisions, an employer, who is currently self-insured or who has ceased to be self-insured, may choose to discharge, without recourse or liability to the Self-Insurers Security Fund, its continuing obligations as a self-insurer, by purchasing a special excess workers' compensation insurance policy, in accordance with existing provisions of law regarding the transfer of liability to insurers and subject to certain approvals and rate filing requirements.

This bill would, notwithstanding any provision of law to the contrary, require the ~~director to deem the purchase of loss portfolio transfer insurance prior to January 1, 2000, by prescribed local school employers to have been the purchase of special excess workers' compensation policies pursuant to the above-described provisions. The bill would deem those policies to have been accepted by the director and would require the~~ California Insurance Guarantee Association to discharge ~~those liabilities in the event~~ *in an amount not to exceed \$8 million of prescribed local school employers arising from the insolvency of Fremont Companies, as defined. This bill would declare payments made by the association pursuant to this bill to constitute a loan and would set forth the manner of repayment.*

This bill would make certain findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3702.85 is added to the Labor Code,  
 2 immediately following Section 3702.8, to read:  
 3 3702.85. (a) (1) Notwithstanding any provision of law to the  
 4 contrary, including, but not limited to, Section 3702.8, the  
 5 ~~purchase by local schools employers, set forth in subdivision (b),~~  
 6 ~~of loss portfolio transfer insurance prior to January 1, 2000, shall~~  
 7 ~~be deemed by the director to have been the purchase of special~~  
 8 ~~excess workers' compensation policies pursuant to subdivision (c)~~  
 9 ~~of Section 3702.8. Those policies are hereby deemed to have been~~  
 10 ~~accepted by the director under paragraph (4) of subdivision (c) of~~  
 11 ~~that section. Moreover, the California Insurance Guarantee~~  
 12 ~~Association shall discharge those liabilities in the event of the~~  
 13 ~~insolvency. California Insurance Guaranty Association~~  
 14 *established pursuant to Article 14.2 (commencing with Section*  
 15 *1063) of Chapter 1 of Part 2 of Division 1 of the Insurance Code,*  
 16 *shall discharge the workers' compensation liabilities, not to*  
 17 *exceed eight million dollars (\$8,000,000), for school district*  
 18 *employers set forth in subdivision (b) arising from the insolvency*  
 19 *of the Fremont Companies. A lump sum not to exceed the eight*  
 20 *million dollars (\$8,000,000) shall be forwarded by the California*

1 *Insurance Guaranty Association to the district employers or their*  
2 *agents and representatives for the express purpose of covering*  
3 *those claims already paid by the school districts, as well as those*  
4 *liabilities incurred and to be incurred by the school districts for*  
5 *those loss portfolio transfers entered into by the school district*  
6 *employers prior to January 1, 2000.*

7 (2) *For purposes of this subdivision, "Fremont Companies"*  
8 *means the Fremont Indemnity Corporation, or the Fremont*  
9 *General Corporation.*

10 (3) *All funds paid by the association under this subdivision*  
11 *shall, subject to subparagraph (C), constitute a loan which shall*  
12 *be repaid as follows:*

13 (A) *For repayment of sums paid by the association to the school*  
14 *district employers listed in subdivision (b), up to and including a*  
15 *total of eight million dollars (\$8,000,000), the association shall be*  
16 *paid from the amounts recovered by the State of California in the*  
17 *litigation involving the Fremont Companies filed in Los Angeles*  
18 *County on June 2, 2004, and assigned case number BC316472.*  
19 *Notwithstanding Section 1033 of the Insurance Code, the school*  
20 *district employers listed in subdivision (b) shall have a preference*  
21 *over the association with respect to any amounts recovered on*  
22 *behalf of the State of California in this litigation, which amount*  
23 *shall be used by the school district employers to repay the loan*  
24 *described in subdivision (a).*

25 (B) *To the extent that the total proceeds recovered on behalf of*  
26 *the State of California and paid to the association after a final*  
27 *disposition of the litigation described in subparagraph (A) are*  
28 *insufficient to cover the total liabilities covered by the association*  
29 *pursuant to this section, those amounts paid by the association*  
30 *pursuant to this subdivision that are in excess of the amount paid*  
31 *from the proceeds of the litigation may, subject to subparagraph*  
32 *(C), be repaid by the school district employers at no interest*  
33 *pursuant to a repayment agreement entered into between the*  
34 *school district employers and the association, unless the*  
35 *Legislature, in a subsequent measure, provides an alternative*  
36 *method for repayment or settlement of the loan.*

37 (C) *Nothing provided in this section shall be deemed to waive*  
38 *or extinguish the rights of any person or entity arising out of the*  
39 *liquidation of, or litigation involving, the Fremont Companies.*

40 (b) (1) *Riverside Community College District.*

- 1 (1.5) Community Colleges/Riverside County Superintendent
- 2 of Schools Self Insurance Program For Employees.
- 3 (2) Mt. San Jacinto Community College District.
- 4 (3) Desert Community College District.
- 5 (4) Riverside County Office of Education.
- 6 (5) Cupertino Union School District.
- 7 (6) Desert Schools School Insurance Program for Employees.
- 8 (7) Palm Springs Unified School District.
- 9 (8) Palo Verde Unified School District.
- 10 (9) Palo Verde Community College District.
- 11 (10) Desert Sands Unified School District.
- 12 (11) Desert Center Unified School District.
- 13 (12) Coachella Valley Unified School District.
- 14 (13) Beaumont Unified School District.
- 15 (14) Western Riverside County School Insurance Program for
- 16 Employees.
- 17 (15) Temecula Valley Unified School District.
- 18 (16) Murrieta Valley Unified School District.
- 19 (17) Lake Elsinore Unified School District.
- 20 (18) Banning Unified School District.
- 21 (19) Menifee Union School District.
- 22 (20) Val Verde School District.
- 23 (21) San Jacinto Unified School District.
- 24 (22) Romoland School District.
- 25 (23) Perris Union High School District.
- 26 (24) Perris School District.
- 27 (25) Nuview Union School District.
- 28 (26) Moreno Valley Unified School District.
- 29 (27) Jurupa Unified School District.
- 30 (28) Hemet Unified School District.
- 31 (29) West San Gabriel Workers' Compensation Joint Powers
- 32 Authority.
- 33 (30) Duarte Unified School District.
- 34 (31) Arcadia Unified School District.
- 35 (32) San Marino Unified School District.
- 36 (33) San Gabriel School District.
- 37 (34) Garvey School District.
- 38 (35) El Monte City School District.
- 39 (36) Valle Lindo School District.
- 40 (37) Temple City Unified School District.



- 1 (38) Rosemead School District.
- 2 (39) Mountain View School District.
- 3 (40) El Monte Union High School District.
- 4 (41) Santa Barbara School District.
- 5 (42) Santa Cruz/San Benito County Schools Insurance Group.
- 6 (42.5) Santa Barbara High School District.
- 7 (43) Aromas-San Juan Unified School District.
- 8 (44) Willow Grove Union School District.
- 9 (45) Tres Pinos Union School District.
- 10 (46) Southside Elementary School District.
- 11 (47) San Benito High School District.
- 12 (48) San Benito County Office of Education.
- 13 (49) Panoche School District.
- 14 (50) North County Joint Union School District.
- 15 (51) Jefferson Elementary School District.
- 16 (52) Hollister Elementary School District.
- 17 (53) Cienega Union School District.
- 18 (54) Bitterwater Tulley Union School District.
- 19 (55) Soquel Union School District.
- 20 (56) Scotts Valley Unified School District.
- 21 (57) Santa Cruz County Office of Education.
- 22 (58) Santa Cruz City School District.
- 23 (59) San Lorenzo Valley Unified School District.
- 24 (60) Pajaro Valley Unified School District.
- 25 (61) Pacific Elementary School District.
- 26 (62) Mountain Elementary School District.
- 27 (63) Live Oak Elementary School District.
- 28 (64) Happy Valley Elementary School District.
- 29 (65) Cabrillo Community College District.
- 30 (66) Bonny Doon Union School District.
- 31 (67) West Covina Unified School District.
- 32 SEC. 2. Due to the unique circumstances concerning the
- 33 pre-January 1, 2000, actions by certain school employers to reach
- 34 a resolution to their workers' compensation funding problems
- 35 prior to the enactment of a statutory solution by the Legislature, it
- 36 is necessary that those employers not be penalized for taking
- 37 decisive, early steps, in consultation with state regulators, to
- 38 address serious workers' compensation funding issues, and the
- 39 Legislature finds and declares that a general statute cannot be made

- 1 applicable within the meaning of Section 16 of Article IV of the
- 2 California Constitution.

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